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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,760	02/16/2001	Raj Abhyanker	10005750-1	2971

7590 11/07/2005  
HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80528-9599

EXAMINER

KYLE, CHARLES R

ART UNIT PAPER NUMBER

3624

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/785,760

Applicant(s)

ABHYANKER, RAJ

Examiner

Charles Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0111892 *Sharp et al* in view of US 6,202,051 *Woolston*.

**As to Claim 4**, *Sharp* discloses the invention substantially as claimed including in a method for aligning transactional flows within an Internet exchange portal, comprising the steps of:

collecting a set of shipping data for shipping between the buyer and seller (para. 74);  
soliciting bids for shipping services required by a contract (paras. 113, 121);  
receiving a set of shipping bids (para. 111); and  
selecting a bid from the set of bids according to a predetermined set of bid evaluation criteria (paras. 112-119).

*Sharp* does not specifically disclose that the shipping services are obtained for a contract entered into between the buyer and seller as a result of an auction. *Woolston* discloses that shipping services are obtained for a contract entered into between the buyer and seller as a result of an auction at Col. 12, lines 30 to Col. 13, line 31 and Col. 10, line 43 to Col. 11, line 38. It

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would have been obvious to one of ordinary skill in that art at the time of the invention to modify *Sharp* to provide shipping for goods sold at the auction of *Woolston* because this would provide a cost effective transport services at a lowest cost to buyer and seller.

**With respect to Claim 5**, *Sharp* discloses business-to-business auction at para. 005.

**With respect to Claim 6**, *Sharp* discloses a contract consummation event at para. 115. *Woolston* discloses an auction service fee at Col. 21, lines 55-57. It would have been obvious to one of ordinary skill in that art at the time of the invention to modify *Sharp* to include the auction service fee of *Woolston* so as to compensate the entity providing auction services.

**Concerning Claim 7**, *Sharp* discloses the recited limitations at paras. 111-114.

**With respect to Claim 8**, Official Notice is taken that the grouping of contracts for transportation (loads) is old and well known the freight transport. For example, a shipper having a standard fifty-three foot trailer would transport loads to a common destination from multiple parties, rather than shipping a single small load which would use only part of the trailer capacity. It would have been obvious to one of ordinary skill in that art at the time of the invention to modify *Sharp* to group such loads and auction grouped contracts to more efficiently and profitably match customers and shippers.

**Regarding Claim 9**, *Sharp* discloses a plurality of shippers at Summary of the Invention, particularly paras. 17-18.

**Concerning Claim 10**, *Sharp* discloses a predetermined set of shipping data at paras. 16, 21 and 24.

**With respect to Claim 11**, *Sharp* discloses seller bid evaluation criteria at paras. 110-112.

**With respect to Claim 12,** *Sharp* discloses selection by a seller from among forwarded bids at para 114.

**With respect to Claim 13,** *Sharp* discloses selecting the bid with the lowest shipping price at para. 111.

**Concerning Claim 14,** Official Notice is taken that a default selection absent an exact match was old and well known at the time of the invention. For example, selection of a “closest match” selection was known. It would have been obvious to one of ordinary skill in that art at the time of the invention to modify *Sharp* to select a default shipper in the absence of a match to a predetermined criteria because this would assure that although sub-optimal, the selection would at least assure that shipping was accomplished.

**Concerning Claim 15,** see the discussion of Claim 4; it is inherent that capacity available for providing shipping services would be unused. One could hardly offer already used capacity.

**Concerning Claims 16-26,** see the discussion of Claims 4-14, of which they are computer-usable medium variants and are rejected in a like manner.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (571) 272-6746. The examiner can normally be reached on 6:30 to 3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Crk  
November 1, 2005

**Primary Examiner**  
**Charles Kyle**  
**Art Unit 3624**

A handwritten signature in black ink that reads "Charles Kyle". The signature is written in a cursive style with a large, stylized "C" and "K".